

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZOHO CORPORATION and
ZOHO CORPORATION PVT., LTD
Petitioners,

v.

MEETRIX IP, LLC
Patent Owner.

IPR2023-00377 (Patent 9,253,332 B2)
IPR2023-00380 (Patent 9,843,612 B2)
IPR2023-00382 (Patent 9,843,612 B2)¹

Before KARL D. EASTHOM, CHARLES J. BOUDREAU,
and KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

ORDER
Setting Consolidated Oral Argument
37 C.F.R. § 42.70

¹ This Order applies to each of the listed cases. The parties must obtain prior authorization to use this caption style. Citations are to IPR2023-00377, unless otherwise noted.

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I. ORAL ARGUMENT

A. Background

This Order for a consolidated hearing on April 25, 2024 applies to each of the proceedings listed above and also in substance to the three following proceedings (collectively, six “Subject Proceedings”) per similar orders entered therein: IPR2023-00371 (Judges McNamara, Szpondowski, Easthom), IPR2023-00378 (Judges Szpondowski, Boudreau, McNamara), IPR2023-00379 (Judges Szpondowski, Boudreau, McNamara). The Board originally scheduled oral hearings for one group of the Subject Proceedings to occur on April 23, 2024 and for another group of the Subject Proceedings to occur on April 25, 2024. This Order supersedes previously entered Scheduling Orders setting hearings for April 23, 2024. *See* IPR2023-00371, Paper 7; IPR2023-00378, Paper 7; IPR2023-00379, Paper 7. Hearings originally set for April 23, 2024 are hereby set for April 25, 2024 in accordance with this Order.

On March 25, 2024 the parties contacted the Board stating that, given the overlap in prior art and other issues, they propose consolidating the oral argument for the two groups of proceedings. On March 28, 2024, via email, the Board requested that the parties meet and confer and propose an agenda for a consolidated hearing. On April 5, 2024 the parties submitted a Joint Proposed Hearing Agenda.

The parties propose conducting a consolidated hearing by grouping the issues as follows:

1. Issues common to IPR2023-00377, -380, -382, - 378, -379

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2. Issues unique to IPR2023-00378, -379
3. Issues regarding IPR2023-00371.

Paper 17.

B. Time and Format

Oral arguments will commence at 12:00 PM Eastern Time on April 25, 2024 by VIDEO.² The hearing will be conducted in the order proposed by the parties. The Board will provide a court reporter for the consolidated hearing, and the reporter's transcript will constitute the official record of the hearing. A single transcript will be prepared and that transcript will be entered into the record of each of the proceedings.

Petitioner will have a total of 2 hours to present argument for the consolidated hearing, and Patent Owner will have a total of 2 hours to respond. The parties will be requested to allocate time to each group of issues at the hearing. For each grouping of issues, Petitioner will begin by presenting its case regarding the challenged claims for which the Board instituted trial, as appropriate to the proposed grouping of issues.

Thereafter, Patent Owner will respond to Petitioner's argument. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. In accordance with the Consolidated Trial Practice Guide³ ("CTPG"), issued in November 2019, Patent Owner may request to reserve time for a brief sur-rebuttal. *See* CTPG 83.

² If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least seven (7) business days before the hearing date.

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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The parties may request a pre-hearing conference in advance of the hearing. *See Id.* at 82. “The purpose of the pre-hearing conference is to afford the parties the opportunity to preview (but not argue) the issues to be discussed at the hearing, and to seek the Board’s guidance as to particular issues that the panel would like addressed by the parties.” *Id.* If either party desires a pre-hearing conference, the parties should jointly contact the Board at Trials@uspto.gov at least seven (7) business days before the hearing date to request a conference call for that purpose.

C. Demonstratives

As set forth in 37 C.F.R. § 42.70(b), demonstratives shall be served on opposing counsel at least seven (7) business days before the hearing date. Demonstratives are to be filed with the Board not later than April 22, 2024.⁴

Demonstratives are not a mechanism for making new arguments. Demonstratives also are not evidence, and will not be relied upon as evidence. Rather, demonstratives are visual aids to a party’s oral presentation regarding arguments and evidence previously presented and discussed in the papers. Accordingly, demonstratives shall be clearly marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. *See Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) (holding that the Board is obligated under its own regulations to dismiss untimely argument “raised for the first time during oral argument”). “[N]o new evidence may be presented at the oral argument.” CTPG 85; *see also St. Jude Med., Cardiology Div., Inc. v. The*

⁴ The parties may stipulate to an alternative schedule for serving and filing demonstratives but must notify the Board of any stipulation.

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Bd. of Regents of the Univ. of Mich., IPR2013-00041, Paper 65, 2–3 (PTAB Jan. 27, 2014) (explaining that “new” evidence includes evidence already of record but not previously discussed in any paper of record).

Furthermore, because of the strict prohibition against the presentation of new evidence or arguments at a hearing, it is strongly recommended that each demonstrative include a citation to a paper in the record, which allows the Board to easily ascertain whether a given demonstrative contains “new” argument or evidence or, instead, contains only that which is developed in the existing record.

Due to the nature of the Board’s consideration of demonstratives and the opportunity afforded for the parties to reach an agreement without involving the Board, the Board does not anticipate that objections to demonstratives are likely to be sustained. Nevertheless, to the extent that a party objects to the propriety of any demonstrative, the parties shall meet and confer in good faith to resolve any objections to demonstratives prior to filing the objections with the Board. If such objections cannot be resolved, the parties may file any objections to demonstratives with the Board no later than the time of the hearing. The objections shall identify with particularity which portions of the demonstratives are subject to objection (and should include a copy of the objected-to portions) and include a one (1) sentence statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider any objections, and may

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